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14 UNITED STATES BANKRUPTCY COURT

15 EASTERN DISTRICT OF CALIFORNIA

16 In re

Bk. No. 10-23565-D-7

17 KALBIR K. JOHL

Motion No. PPR-1

18 Debtor

CHAPTER 7

19 SUSAN K. SMITH,

Hearing-

Date : June 9, 2010

Time : 10:00 AM

20 Trustee,

Place : U.S. Bankruptcy Court

501 I Street

Sacramento, CA

Courtroom 34 Dept. D

Judge: Robert S. Bardwil

21 U.S. BANK, N.A. ITS SUCCESSORS AND/OR ASSIGNS'

22 MOTION FOR RELIEF FROM AUTOMATIC STAY

23 U.S. Bank, N.A. its Successors and/or Assigns, a holder in due course, move the
24 Court for relief from the Automatic Stay provided by 11 U.S.C. §362. This motion seeks an
25 Order terminating the Automatic Stay of 11 U.S.C. §362 as to moving party (and the Trustee
26 under the Deed of Trust securing moving party's claim) so that moving party (and its Trustee)
27
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1 may commence and continue all acts necessary to foreclose under the Deed of Trust secured by
2 Debtor's property.

3 Movant seeks relief pursuant to 11 U.S.C. §362(d)(1) for “cause” due to the
4 failure of Debtor to make required payments and pursuant to 11 U.S.C. §362(d)(2) and alleges
5 that, in accordance with the information set forth in the attached Declaration, there is
6 insufficient equity present in the subject real property to justify the continuance of the
7 Automatic Stay. See Stewart v. Gurley 745 F 2d 1194 (9th Cir. 1984).

9 This Motion is being heard on 28-day notice, pursuant to LBR 9014-1 (f)(1).
10 Opposition to this motion, if any, shall be in writing and shall be served and filed with the Court
11 at least fourteen (14) calendar days preceding the date of hearing.

13 In addition, and in the event that this Court continues the Automatic Stay,
14 Movant will seek adequate protection of its secured interest pursuant to 11 U.S.C. §§ 361 and
15 362, including a requirement that Debtor reinstates all past arrearages and immediately
16 commence regular monthly payments.

18 Movant also seeks an Order terminating and vacating the Automatic Stay for all
19 purposes as it pertains to Movant’s interest in the subject real Property, including the
20 prosecution of appropriate foreclosure remedies, without the requirement of further notice or
21 publication, except as may be required by state law.

22 Movant also seeks an Order waiving the 14-day stay as provided by Bankruptcy
23 Rule 4001(a)(3).
24

25 In addition, Movant requests such further relief as is just.

26 This Motion is based on these moving papers, as well as the attached Declaration
27 and the Relief from Stay Information Sheet, filed separately and concurrently with this Motion.
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1 In the event neither the Debtor, Debtor's counsel or Trustee files a timely
2 opposition to this motion, the Court may grant relief from the Automatic Stay permitting
3 moving party to foreclose on the Debtor's property located at **6140 Elkhorn Court, Vallejo,**
4 **California** and obtain possession of such property without conducting a hearing.

5 WHEREFORE, Movant prays judgment as follows:

6 1.) For an Order granting relief from the Automatic Stay, permitting this Movant
7 to move ahead with foreclosure proceedings under Movant's Deed of Trust.

8 2.) For such Order regarding adequate protection of Movant's interest as this
9 Court deems proper.

10 3.) For an Order waiving the 14-day stay described by Bankruptcy Rule
11 4001(a)(3).

12 4.) For such other relief as this Court deems appropriate.

13 DATED: April 21, 2010

14 PROBER & RAPHAEL
15 A LAW CORPORATION

16 /s/ CASSANDRA J. RICHEY, ESQ. #155721
17 Attorney for Secured Creditor
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